

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

K.O. and E.O., Jr., by and through their parents
and next friends, E.O. and L.J.; and
C.J. by and through his father and next friend
F.C.; each individually and on behalf
of all others similarly situated

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

C.A. No. 20-12015-TSH

**DEFENDANT’S MOTION
TO TRANSFER THIS ACTION TO THE WESTERN DISTRICT OF TEXAS,
OR ALTERNATIVELY
TO DISMISS PLAINTIFFS’ AMENDED COMPLAINT**

Defendant United States of America, by and through its attorney, Rachael S. Rollins, United States Attorney for the District of Massachusetts, respectfully moves to transfer this action to the Western District of Texas, or in the alternative, to dismiss Plaintiffs’ K.O. and E.O., Jr., by and through their parents and next friends, E.O. and L.J., and C.J., by and through his father and next friend, F.C., each individually and on behalf of all others similarly situated (together, “Plaintiffs”) Amended Complaint and Jury Demand pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction. As set forth in the supporting memorandum of law this case should be litigated in the Western District of Texas, where most of the alleged acts complained of occurred. In the alternative, Congress has not waived sovereign immunity for the type of claims asserted in this action. As such, the claims are jurisdictionally barred and should be dismissed.

For the foregoing reasons, Defendant requests that this action be transferred to the Western District of Texas or, in the alternative, dismissed for lack of subject matter jurisdiction.

RESPECTFULLY SUBMITTED

RACHAEL S. ROLLINS
United States Attorney

By: /s/ Rayford A. Farquhar
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LOCAL RULE 7.1 CERTIFICATION

I, Rayford A. Farquhar, Assistant United States Attorney, hereby certify that I conferred with Joseph M. Cacace, counsel for the Plaintiff, regarding this Motion and we were not able to narrow the issues raised in this Motion.

/s/ Rayford A. Farquhar
Rayford A. Farquhar
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Rayford A. Farquhar, Assistant United States Attorney, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Rayford A. Farquhar
RAYFORD A. FARQUHAR
Assistant United States Attorneys

Dated: May 20, 2022